

Researching deaths after police contact: challenges and solutions

Baker, D.

Author post-print (accepted) deposited in CURVE March 2016

Original citation & hyperlink:

Baker, D. (2016) Researching deaths after police contact: challenges and solutions. Journal of Criminological Research, Policy and Practice, volume 2 (1)

<http://dx.doi.org/10.1108/JCRPP-08-2015-0036>

DOI: 10.1108/JCRPP-08-2015-0036

Publisher: Emerald

'This article is © Emerald Group Publishing and permission has been granted for this version to appear here <http://curve.coventry.ac.uk/open/items/5dc11688-3419-48a4-9091-ee5d5b922d10/1/>. Emerald does not grant permission for this article to be further copied/distributed or hosted elsewhere without the express permission from Emerald Group Publishing Limited.'

Copyright © and Moral Rights are retained by the author(s) and/ or other copyright owners. A copy can be downloaded for personal non-commercial research or study, without prior permission or charge. This item cannot be reproduced or quoted extensively from without first obtaining permission in writing from the copyright holder(s). The content must not be changed in any way or sold commercially in any format or medium without the formal permission of the copyright holders.

This document is the author's post-print version, incorporating any revisions agreed during the peer-review process. Some differences between the published version and this version may remain and you are advised to consult the published version if you wish to cite from it.

Researching deaths after police contact: challenges and solutions

Abstract

Purpose.

This paper considers the methodological challenges to researching deaths after police contact (DAPC) in England and Wales. It proposes original and innovative solutions to these challenges.

Design/method

Challenges such as access to data, sensitivity, limited academic literature, and bias are considered. Designs to counter these challenges include using documentary data and examining events in one organisation through the prism of an adjacent organisation.

Findings

Subjects that are contentious and difficult to access can be researched by searching for a 'way into' the key issues by using non-traditional data and an innovative approach.

Originality/value

*The research is **of value** because it demonstrates how obstacles to researching difficult to access areas of interest to criminology may be surmounted.*

Research limitations/implications

The implications of this paper are that other difficult to research areas of society might be accessed by using the approaches outlined.

Practical implications

The practical implications of the research are to highlight the usefulness of documentary data in researching issues relating to police and court proceedings.

Social implications

The research has impact because it demonstrates how research might be undertaken into contentious and difficult to research issues that are relevant to society. This may enable the formulation of future policy based on such research.

Key words

*Death after police contact, documentary data, **narrative verdicts**, access to research, researching public organisations*

Paper type

Research paper

Introduction

How does one research a contentious and sensitive subject when issues of access, potential bias and lack of available literature appear to represent insurmountable obstacles? This paper argues that such obstacles might be navigated by employing an original research perspective to the subject and by using a non-traditional corpus of data. In combination these can enable a 'way in' to a difficult to research area that is of significant interest to society. One of the goals of criminological research should be to cast light on contentious issues, not use obstacles as a justification to shy away from them. The paper charts the methodological underpinnings and practical data collection methods of a study which sought to investigate deaths after police contact (DAPC) in England and Wales in the period 2004-2013. It examined how organisations might hold police to account in such cases. The issue of DAPC is of particular relevance to society as it reflects concerns about equality, fairness, human rights, police powers and accountability.

Significant challenges in terms of access and sensitivity in relation to the subject of DAPC minimise the possibility of empirical research into the police in relation to deaths after contact with citizens. Therefore the approach taken was to research the coroner's court system in England and Wales rather than directly researching the police. In this sense, the activities of one public organisation are viewed through the prism of activities within another. Coroners' courts typically investigate all cases of DAPC in public, using juries. These produce publicly accessible verdicts, known as 'narrative verdicts' stating the relevant facts found in such cases. Taking a non-direct research perspective, allied to the use of a documentary dataset **consisting of narrative verdicts** enabled research into this contentious and sensitive subject. The paper argues that by subjecting this data to framework analysis, and utilising **available** literature from **academic and** non-academic sources that relate to such cases, academic research is possible into difficult to access subjects. To this end, the paper focuses principally on how research might be carried out into subjects that tend to be characterised by opacity or lack of extant literature rather than generating findings derived from such research. In order to provide a suitable backdrop to this discussion we begin with a brief consideration of the wider research context.

Context

The Independent Police Complaints Commission (IPCC) is the principal police complaints body in England and Wales. It states that between 2004 and 2013 a total of 1261 people in England and Wales died after contact with the police (IPCC, 2014). The term 'death after police contact' is the official term used by the IPCC to record such deaths in England and Wales. The term DAPC covers numerous categories of deaths, ranging from suicide, to shooting, to deaths as a result of police road pursuit. The majority of cases fall under the category of death while in police custody (IPCC, 2014). Recent cases of DAPC such as Mark Duggan and Azelle Rodney (both shot dead by Metropolitan police officers), combined with high-profile examples in the US such as Michael Brown and Eric Garner illustrate both the topical and contentious nature of this subject. However, there is a relative **scarcity** of academic literature about the issue of DAPC in England and Wales (see, for example Savage, 2008).

Cases of DAPC in England and Wales are typically investigated by the coroners' court system and the IPCC. Whereas narrative verdicts are recorded in public by juries in the coroner's court, IPCC reports into these cases are conducted in private and their findings are not fully accessible to the public (Casale *et al.* 2013). The coroner's inquest represents the principal legal forum in which these deaths are investigated (Dorries, 2004). The coronial system aims to investigate suspicious or unexplained deaths and learn lessons that may prevent future deaths. In this respect, its role is by no means purely focused on police, but on any type of unexplained death involving any combination of factors (Luce, 2003). The coroner's court fulfils the state's legal obligation to ensure compliance with the *European Convention on Human Rights* (ECHR), specifically Article 2: the right to life which states that:

"Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law" (European Court of Human Rights, 2010, p.6).

Article 2 of the ECHR acknowledges that deaths will occur as a result of interaction with state agents. It follows that deaths incurred after contact with these agents should be investigated with a rigour and thoroughness that demonstrates the state has met these

criteria in actively seeking to enable citizens' right to life (Dorries, 2004). The Human Rights Act 1998 is the UK's statutory response to the ECHR. Since its enactment coroners' practices must be interpreted in a manner compatible with the ECHR (Davis *et al.* 2002). The state response to deaths involving its agents has become manifest in the coronial system in what are termed 'Article 2 inquests.' Article 2 inquests are investigated more rigorously than any other type of inquest and as a result are more complex and contested (Matthews, 2002). The significance of the ECHR has been to impose 'an evidential burden' on the state to provide an explanation of such a death that is satisfactory and convincing.

Since the advent of Article 2 inquests there has been a growth in what are termed 'narrative verdicts'. These set out a narrative description of the key 'facts found' in the inquest but do not adopt a standardised format with the narratives varying significantly in length, style, and content (Matthews, 2011). Numerous judgements have been made noting the relevance and appropriateness of narrative verdicts in the fulfilment of the state's response to Article 2 of the ECHR. The House of Lords (2004) stated: "To meet the procedural requirement of Article 2 an inquest ought ordinarily to culminate in an expression, however brief, of the jury's conclusion on the disputed factual issues at the heart of the case". Consequently, such narratives represent the record of facts found by members of the public investigating cases of DAPC. It is clear that the coronial system and the narrative verdicts it produces as documentary data represent fertile ground from which the difficult to access subject of DAPC can be researched. I will address the issue of documentary data in more detail in due course, but first we turn to some of the challenges posed to criminological researchers in relation to investigating the police and courts.

Challenges to criminological research

The paper has its origins in a three year research project into how accountability was constructed in cases of DAPC in England and Wales in the period 2004-2013. The project examined how accountability construction evolved during this time by investigating the processes and practices used by regulatory bodies to hold police to account for such deaths. The principal aims of the research were first, to evaluate the impact of Article 2 of the ECHR on accountability construction in cases of DAPC. Secondly, to analyse narrative texts that construct accountability in cases of DAPC. Thirdly, to critically evaluate the concept of

accountability in cases of DAPC. Data was gathered from the principal regulators of the police in cases of DAPC in the form of investigatory findings into these deaths. These findings were subject to framework analysis to identify key themes relating to cases of DAPC.

Documentary data collection of narrative verdicts was deemed appropriate for the present study for a number of reasons, perhaps the most relevant of which was access. Academic literature on the subject of DAPC is relatively sparse and one of the reasons for this is the sensitive nature of the topic which is, in turn, reflected in the issue of access. Of course, researching sensitive topics is nothing new (see Lee, 1993, 1995; Renzetti and Lee, 1993). Nor are problems of access novel where data collection involving the police are concerned (see, for example Holdaway 1983). Reiner states that trust and access are key to undertaking empirical research on the police and that: "On some topics the problems of researching the police are virtually insuperable" (2000, p.218). Consequently, he notes that journalism tends to be an area capable of conducting such research as it has: "the ability to probe particular areas of malpractice that academics have seldom dealt with" (Reiner 2000, p.213). This is consistent with Fyfe's (2002) view from the US that information on instances of DAPC is more likely to be gleaned from news media than academia. He views this as being both a problem of access and the relative lack of academic interest in pursuing such sensitive research.

The author believes that these issues are interlinked and represent a vicious circle that tends to encourage academic authors to avoid sensitive and difficult to access topics and domains. Similarly, Baldwin argues that researcher access to courts or juries is riven with difficulty and that: "Some projects have got off the ground only because researchers have employed considerable ingenuity and inventiveness" (2000, p.237). Likewise, Hurdley suggests that if access is a major issue, the researcher should consider identifying and researching the "in-between places" that exist in the subject area (2010, p.517). It is my contention that researching DAPC by focusing on coroners' courts represents such an 'in-between place' and that undertaking research on a contentious and under-researched area is possible if innovative approaches are deployed.

The issues highlighted above relate to a broader matter which is the possible scope of research activity within the social sciences. Numerous authors have focused on issues

restricting social scientific research in recent years. These range from income generation (Dyer and Demeritt, 2008); to increasingly onerous ethics regimes driven by institutional requirements (Dingwall, 2006); to problems of access (Hurdley, 2010). This has led to accusations of research being subject to “regimentation” (Hurdley, 2010, p.525), or even “censorship” (Dingwall, 2006, p.57). Further to this, Dyer and Demeritt state that such approaches “[protect] the rights of the individual research subject over the wider ideas of academic freedom to inquiry, public right to know, and the moral duty to expose injustice” (2008, p.60). The UK public has a vested interest in the subject of DAPC, and as such the academic community should seek ways to research it. Issues relating to how and why documents might be used to research subjects is discussed in more detail below.

Using documentary data in criminological research

It has become relatively unusual to use documents in social scientific research, although as Smith (2011) observes, human knowledge commonly originates from documents rather than from experience. Their use is generally considered to be more prevalent in historical research; however, Scott (1990) states that this has not always been the case. Prior (2003) asserts that the use of written documents in particular has become somewhat detached from social scientific research. He believes this has occurred despite the existence of a dynamic connection between words, writing and action, the analysis of which may aid in the understanding of complex social issues. McCulloch (2004) states that the social scientific tradition of using documents continued through the work of the Chicago school in the 1920s and 30s before being supplanted by the emerging trend of data being actively collected by the researcher. He posits that this was in part a move away from the ‘top-down’ view of research in favour of a ‘bottom-up’ view of peoples’ experiences and perceptions of social issues. It might be argued that the **narrative verdicts** considered in this paper does come from a ‘bottom up’ approach, as the corpus of data is recorded by juries.

According to Bryman (2012), using documents can present problems in that one does not precisely know how one might use them within the research. One cannot be entirely sure what should be assessed in the content of the documents until one has become immersed in them. Corbetta (2003) urges caution when using legal documents due to their inherent meanings reflecting the institutional contexts and imperatives that they necessarily reflect, a view shared by Smith (2011). Corbetta (2003) believes that the researcher must take care

to ensure a critical and sceptical approach is taken to the construction of this reality. Such data needs to be subject to critical examination in order to evaluate the embedded values and meanings of the institutional context in which the documents are produced, as will be discussed presently in relation to framework analysis. As Smith notes, the key issue with documentary research is not the “baggage” that the researcher brings to the project, but the baggage brought by the documents, hence: “The social organisation and production of the knowledge itself is the focus of inquiry” (2011, p.2).

Flyvbjerg *et al.* (2012) assert that any type of social scientific investigation focuses on contextualised knowledge. As such, they argue that rather than focus on types of data or methods, the researcher would do better to understand specific contexts based on the type of activity that occurs within each context. They include narrative as a possible approach. Following this chain of logic, it would appear perverse *not* to investigate a subject primarily on the basis that a method of research precluded such research. On the contrary, due to the nature of **DAPC**, the problems of access demand that an innovative approach be adopted. The area is under-researched on account of its sensitive nature, and is riven with problems of access, yet is of fundamental importance to society. According to Wetherell *et al.* (2008), using pre-existing documents can mean that the research process is less likely to contain assumptions about the design of the research. Instead, the documents become subject to a framework set out by the researcher. Furthermore, the researcher runs the risk that this process of analysis is relatively open-ended because it is not necessarily clear which patterns might be significant, or even what the researcher is looking for (Wetherell *et al.* 2008). On the one hand there is a need to be cautious about whether a significant number of in-depth findings might be revealed by such documents. On the other, the richness of the data within the dataset means that analysis of them might never be entirely complete.

The principles that establish the relevance of documents for social scientific research are relatively well established (McCulloch, 2004; Scott, 1990). They should fit four criteria: authenticity, credibility, representativeness and meaning. The criteria do not represent stages of usage but function interdependently (Scott, 1990). First, the documents used are authentic in that they are available in the public sphere and produced by the legal body obliged to record findings in cases of DAPC in England and Wales. Secondly, they are credible because as official documents, they do not represent anything other than

themselves and thus are not subject to distortion. One might dispute the findings or orientation of some of the documents, but they are undoubtedly the end product of organisational practices that are obliged to record their findings in respect of cases of DAPC. Thirdly, they are representative as they are documents that are typical of their kind; they accurately represent the range of texts produced in these cases. Finally, their meaning is clear because the evidence they provide is manifestly comprehensible. However, whilst the public nature of these documents has been emphasised thus far, it must also be acknowledged that the term ‘public’ in this sense is relative, as **is discussed** below.

‘Beware of the leopard’ – a note on what constitutes ‘public’

In the novel *“The Hitchhikers’ Guide to the Galaxy”* the protagonist, Arthur Dent, discovers that his house is to be demolished to make way for a new road. Distraught, he complains to a council official who tells him that the plans were on public display for a considerable time, giving him ample opportunity to lodge a complaint. Dent replies that the plans were indeed on public display when he searched for them: in a cellar to which there were no stairs, with no lighting, in a locked filing cabinet situated in a disused toilet on which hung the sign ‘beware of the leopard’ (Adams, 1980). This literary reference is analogous to the ‘public’ nature of coronial inquests into cases of DAPC and the way in which narrative verdicts are recorded (Williams and Emsley, 2006). In the coronial system, whilst inquests are held in public, it is relatively rare for the public to be in attendance. In England and Wales, part of the reason for this might be the public’s lack of familiarity with the court (and criminal justice) system per se, and that it is often unclear where or when inquests are to be held. Indeed, the coronial system has long been criticised for being insufficiently ‘public facing’ in its operations, particularly when compared with that of Australia or Canada (Luce, 2003). Criticisms have focused on issues such as a lack of dedicated websites, and a general disinterest in informing the public about the functions of the coroner’s court. Furthermore, while narrative verdicts are notionally public documents, in reality they are public only if the public are present when the verdict is read aloud.¹

¹ There are a few exceptions to this. The Ian Tomlinson inquest is notable for all transcripts being available on the coroner’s dedicated website. However, it is relatively unusual for a coroner to have a dedicated website, let alone post information regarding inquests on it.

The most common way that narrative verdicts become public knowledge is by media reportage – and this is typically in a highly edited form. Consequently, for a narrative verdict to become publicly known, there must be either a member of the public or media present when they are delivered.² Should a member of public wish to see a narrative verdict, they need to satisfy the coroner that they fulfil the criteria of being a ‘properly interested person’ in the case (Levine, 1999). The coroner makes this judgement using discretion which cannot be subsequently challenged or appealed (Dorries, 2004; Matthews, 2011). A ‘properly interested person’ is typically constituted as being a family member related to the deceased, or a professional person that has a connection to the circumstances leading to the death of the individual (Thomas *et al.* 2008). Narrative verdicts are not publicly available in a collated form or at a national level, therefore the public nature of recorded findings in cases of DAPC is equivocal. Thus although a publicly accessible corpus of documentary data, *in the form of narrative verdicts*, is used to research this contentious subject, the difficulty in establishing what is public in some sense illustrates the challenges of researching such a subject. This is further emphasised by the *limited* academic research on the topic, as discussed below.

Researching DAPC: limited academic literature

As we have seen, to date the subject of narrative verdicts has received little attention from academic authors. Exceptions are Office for National Statistics (ONS) researchers Hill and Cook (2011), who focused on the effect of narrative verdicts on general mortality data; McIntosh (2012), who examined narrative verdicts in relation to providing accountability to children’s next of kin; and Pilkington *et al.* (2014), who considered the possible use of narrative verdicts to learn lessons in the aftermath of road traffic accidents. Much of the limited academic literature on the coronial system relates to what professional persons might expect to encounter should they be called to give evidence at an inquest (see, for example Gournay, 2005; Griffith and Thngnah, 2008). There is also limited scholarship on the coronial system and cases of DAPC (see for example Langer *et al.* 2011).

Similarly, whilst there is a significant body of academic literature on the police role and function, their use of force, and how accountability might be produced with regard to the

² The author attended an Article 2 inquest in London in July 2013 that produced a highly critical verdict. There was no representation at the inquest by either family members or media. The story was first reported by the media 2 weeks after the fact by the London Evening Standard based on a press release by the charity *Inquest* regarding the narrative verdict.

police in theory and practice, there is little written on the issue of DAPC (Sim, 2004). One exception is Savage (2008) who notes the highly symbolic nature of cases of DAPC as being bound up with other factors such as transparency, the quality of justice and effectiveness of accountability structures. This aside, much of what is written tends to focus on media representations of DAPC (see, for example Erfani-Ghettani, 2015; Greer and McLaughlin, 2012; Hirschfield and Simon, 2010); or the broader issue of regulators holding police accountable (see, for example Savage *et al.* 2009; Smith, 2013). However, this does not take into account a significant amount of official literature produced on this subject by the various agencies and organisations that deal with such cases. Numerous official reports and policy documents exist on the issue of DAPC from a diversity of sources. Such literature is not subject to peer review in the sense that academic research is, but it does provide a framework of knowledge within which the subject of DAPC might be investigated. In the sphere of policing, organisations such as the IPCC (and its predecessor, the Police Complaints Authority), the Association of Chief Police Officers (ACPO), the National Police Improvements Agency (since replaced by the College of Policing) or Her Majesty's Inspectorate of Constabulary (HMIC) have all produced research papers on DAPC. From a parliamentary perspective, for example, research has been produced by the Home Affairs Select Committee (HAC) and the Independent Advisory Panel (IAP) on deaths in custody. Furthermore, medical bodies such as the British Medical Association (BMA) and the Faculty of Legal and Forensic Medicine (FFLM) have undertaken research on DAPC.

There are, however, examples of academic literature that consider the issue of DAPC by examining documents in the coronial system, albeit that such literature is not focused on England and Wales, nor does it consider jury produced documents. In Australia, Porter (2013) considered the issue of indigenous deaths associated with police contact by analysing coroners' reports, noting their relevance as a rich source of data in understanding such deaths. Antonowicz and Winterdyk (2014) examined deaths in state custody in three Canadian provinces by using a combination of official sources, one of which was using available coroners' reports. Both articles note issues of incomplete data and uncertainty over exactly what data might exist on the issue of DAPC and the coronial system, much as I found in my attempts to access data on this issue in England and Wales (Baker, 2015).

In terms of practitioner literature, in England and Wales research papers on deaths in state custody have been produced by Inquest (2015), the Equality and Human Rights Commission (EHRC) (2014) and Coles and Shaw (2012). It must, however, be noted that the EHRC data originated from Inquest's archive, and that Deborah Coles and Helen Shaw are co-directors of Inquest. These papers analysed data from coroners' reports and narrative verdicts into deaths in custody more broadly (Coles and Shaw, 2012); the deaths of young adults and children in prison (Inquest, 2015); and deaths of adults with mental health issues in detention (EHRC, 2014). All three articles posit that the use of narrative verdicts and coronial reports presents excellent opportunities for institutional lesson learning in cases of deaths in custody.

Academic literature is also available on the broader issue of documents produced in relation to deaths in custody. For example, in Australia, Corrin and Douglas (2008) researched the death of one individual as a case study and considered, amongst other sources of data, the coroner's report into his death. Dodds *et al.* (2014) examined the use of coronial data in the possible prevention of suicide in state custody. Mok (2014) considered the role of coronial reports in New Zealand with regard to the possible prevention of future deaths in society more broadly. In Germany, Heide *et al.* (2009) examined medical assessments performed by physicians pre- and post-death in police custody, also noting incomplete data and lack of national overview of such deaths. In the UK, the Warwick Inquest Group (1985) produced an article on an ethnographic study into one case of DAPC in England, in particular noting the theatrical dimension of inquests.

Much of the above reflects the methodology of an earlier piece of research by Polk (1994) on homicide. He stated that in order to understand death as an essentially social act, it is necessary to access 'raw data' on homicide in order to understand the social contexts in which it occurs (Polk, 1994, p.5). This broadly reflects my approach in examining cases of DAPC through narrative verdict outputs of the death investigation process in England and Wales. In this sense, the originality of my work in relation to the extant literature on this subject is that first, it is about death after police contact (as distinct from deaths in state custody); secondly, it focuses on this issue in England and Wales; thirdly, it represents a peer reviewed piece of academic literature as distinct from practitioner based research; and finally, it uses documents produced by juries, as distinct from those produced by coroners.

Although there is some research on IPCC investigations into these cases, notably by the IPCC's own in-house researchers (see, for example Hannan *et al.* 2010; and Hannan, 2013); there is little research into the role of **coroners' juries** in examining these cases. Authors have speculated that this area is ripe for research (see, for example, McLaughlin, 2007; Beckett, 1999; Scraton and Chadwick, 1987). Using the available literature enables the contextualisation of key issues in both cases of DAPC and the coronial system. For example, the literature consistently notes that a disproportionate number of people from marginalised groups die in state custody; that mental health and substance abuse is common among those who do; and that there are problems with officers' training, communication and risk assessment that often lead to errors being made in both apprehension and custody (see, for example **Antonowicz and Winterdijk, 2014; Porter, 2013; Coles and Shaw, 2012**; Hannan *et al.* 2010; ACPO, 2012; BMA, 2009; Fulton 2008).

Practitioner literature on coroners emphasises the issue of coronial autonomy, and that coroners tend to be quite protective of this. This leads to different types of processes being used in inquests; it means that inquests are often adversarial despite purportedly being inquisitorial; and that the coronial service in England and Wales is best imagined as a regional rather than a national system (see, for example Thomas *et al.* 2008; Dorries, 2004; Luce, 2003; Davis *et al.* 2002). In terms of the present study, the key issues in relation to DAPC and coroners' courts gleaned from official literature enabled the author to interrogate the documentary data by having a frame of reference from the outset to guide the sifting and sorting of issues raised by the corpus of data.

The decision to conduct research into cases of DAPC by investigating the coroner's court was driven by the need to find 'a way in' to this issue, and by problems caused by the sensitivity of the subject and access to data. Rather than research the subject from the perspective of the police, it was researched from the perspective of how accountability is produced in these cases by the coroner's court, **as was noted in the academic work of Antonowicz and Winterdyk (2014) in Canada, and Porter (2013) in Australia. Practitioner based literature has taken a similar slant in the UK, for example see Inquest (2015), EHRC (2014) and Coles and Shaw (2012).** This **approach** effectively means that the outcome of the accountability process (in the form of narrative verdicts) was used to identify key themes in the issue of DAPC. As stated previously, this approach might be considered to be a 'bottom-

up' method of research by considering a corpus of documents produced by juries and extant in the public domain.

One way of surmounting an apparently insurmountable problem is to turn negatives into positives by re-imagining how a research project might be conceived. The problems of access to research data led the author to utilise a documentary dataset. This demonstrated that the research conducted into narrative verdicts and the coroner's court was sparse. The limited amount of academic literature ensured that I thoroughly investigated what literature there was from official sources. In this sense, the outcome of the process was used as a way of analysing how the process functions in the absence of any other form of access to the subject of DAPC. The next section will consider how the issues and processes highlighted above may be subject to analysis in order to identify key patterns and themes within a corpus of data.

Framework analysis

Framework analysis (Ritchie and Spencer, 1994) represents one method by which a corpus of documentary data might be interrogated. Ritchie and Spencer's (1994) approach, comprises the adoption of a series of contextual and diagnostic objectives in order to interrogate the dataset in question. Context is assessed by identifying the form and nature of what exists within the dataset. In this sense, context is to some degree provided by using the available literature on the issue at hand. The diagnostic aspect of the process considers the causes of why the data exists in the form and nature that it does. Ritchie and Spencer (1994) hold that framework analysis is dynamic, accessible, and allows analysis between and within cases. It is dynamic because it allows the researcher to alter the framework of analysis as other issues become apparent during the course of data analysis. The data is accessible because it represents a corpus of public documents and could be examined by other researchers. Finally its use within and between cases enables the construction of typologies and the location of associations between cases (Ritchie and Spencer, 1994).

The data analysis for the present study followed Ritchie and Spencer's (1994) five-stage process discussed below. First, the researcher became familiar with the corpus of data in order to gain an overview of the nature and extent of its contents. In essence, this consisted of reading and re-reading the dataset and making extensive notes about recurring themes,

words and phrases. Secondly, familiarisation enabled a thematic framework to be constructed. This began as a matrix constructed out of what initially appeared to be the key issues revealed during the process of familiarisation. Due to the dynamic nature of framework analysis, the matrix evolved through several incarnations and eventually became too complex for one document, morphing instead into a variety of different matrices. Thirdly, a process of indexing took place, whereby numerical and alphabetical indices were used to break the matrices down in terms of case numbers and key issues or terms. Fourthly, charting enabled indexing to be used to make associations within and between issues and terms. For example, in the research project that was undertaken, the researcher was able to identify that an issue such as suicide, could be linked to a specific term, such as referring to the deceased informally in the narrative verdict. Finally, charting led to a process of mapping and interpretation. Maps emerged in the form of typologies such as particular conditions like substance abuse, or the relationship between restraint and mental health in cases of DAPC. The former relates to individuals dependent on substances who are detained and the processes used to monitor and manage their physical health whilst in custody. The latter relates to the disproportionate tendency of police officers to use restraint on individuals with mental health issues either during the arrest phase or the custody phase (Baker, 2015).

Whilst this article focuses on how to research difficult to access subjects, having noted some examples above that demonstrate findings revealed by framework analysis, I now briefly set out three original findings from my research in order to underline how narrative verdicts represent rich sources of data in these cases. First, the term 'death after police contact' is a misnomer in that half of the deaths in the dataset involved at least one other public service in addition to the police, typically these are medical services, such as paramedics, accident and emergency departments, or mental health teams. Typically such deaths are viewed as the result of contact with the police alone (Baker, 2015). Secondly, multi-agency working in cases of DAPC is regularly criticised by juries in terms of 'failures' that lead to the deaths of individuals. Such deaths are usually seen to some degree as being caused by actions taken by the deceased, rather than failures by public services (Baker, 2015). Thirdly, and linked to the second finding, omission on behalf of public service workers involved in such deaths is noted in about half of the cases in the dataset, usually with regard to neglect. Typically cases

of DAPC are considered to be the result of actions taken by either police or the deceased, this finding suggests inaction can be just as causal in the death of a citizen after police contact (Baker, 2015). Such findings suggest that the formulation of policies to minimise future cases of DAPC should at least consider the role of other public services as a possible causal influence in such deaths, illustrating the richness of the narrative verdict dataset, much as noted by Coles and Shaw (2012).

Of course, when described in this way framework analysis appears a relatively straightforward and objective process. However, a frequently acknowledged (and some would say necessary) aspect of qualitative enquiry is that of subjective inference and it is to this issue that the final part of our discussion turns.

Accessing documents and addressing potential bias

The corpus of documentary data has been accessed through the charity '*Inquest*'. It is an organisation that assists and represents the families and friends of those who have died in custody in the UK. *Inquest* maintains case files on all deaths in custody, including those in prisons and closed psychiatric institutions. Initial attempts to secure the narrative verdict data were stymied by the Ministry of Justice which asserted that whilst such verdicts existed within each coronial district they were not collated centrally. Hence, any attempt to obtain the narrative verdicts would mean that each coroner who had recorded one would have to: a) be contacted in person, and b) accept that I (the researcher) was a 'properly interested person' in order that access might be allowed to the document. This gave rise to a more immediate problem in that, due to the opacity of the coronial system it cannot be known with certainty when, where, or indeed *if* narrative verdicts are recorded. The only way around this conundrum would have been to write a general request to all 99 coronial districts in England and Wales requesting access to narrative verdicts in cases of DAPC in the period 2004-13. This was deemed to be excessively time consuming and very likely unproductive due to issues of coronial resources and response to postal enquiries, the latter of which is notably problematic (Bryman 2012).

A further unsuccessful attempt was made by the researcher to the ONS on the basis that their mortality statistics are based in part on returns from coroners' courts. On further investigation, the ONS confirmed that these verdicts were received and collated by them in

order that they be classified individually by specialist ONS researchers into the categories used in statistical reports on mortality types. A request to access this data was denied on the grounds of data protection because the research project had a different purpose to that for which the ONS data had initially been gathered for. This is an example of the way in which social scientific research may be inherently limited by restrictions imposed in the name of 'data protection' (see, for example Erdos, 2012; Hammersley, 2009; Dingwall, 2006). To a large degree, my experiences with the Ministry of Justice and ONS underscore Westmarland's (2011) assertion that attempts by researchers to access organisations in the criminal justice system often result in the researcher being diverted away from what they originally wished to research. Furthermore, it reinforces Reiner's (2000), Fyfe's (2002) and Baldwin's (2000) view that this subject is highly sensitive, difficult to gain access to, and consequently significantly under-researched.

'Inquest' obtain such documents as a result of caseworkers being present when the narrative verdicts are read aloud in court. Consequently, the issue of bias must be addressed because of the way in which the researcher accessed the dataset. In the seminal article *'Whose Side Are We On?'* Becker (1967) takes a view that social scientists cannot avoid being biased when approaching research. This is mainly due to researchers being human and thus embedded in social structures and understanding. Furthermore, he states that this is exacerbated by the research process, in that the conduct of research inevitably causes researchers to take a perspective on the subject, often one which has some sort of political slant: "Almost all the topics that sociologists study, at least those that have some relation to the real world around us, are seen by society as morality plays" (Becker, 1967, p.245). One might argue that cases of DAPC neatly emphasise Becker's point as they represent a highly complex and contentious topic. Furthermore, Lumsden notes: "Value neutrality is a myth and attempts to mitigate bias are largely unrealistic" (2012, p.14). That said, it may be somewhat simplistic to portray bias as a binary issue.

In response to Becker, Liebling (2001) notes that it should be possible to take more than one side in research in order to achieve a degree of overall balance. She focuses on the relationships between the researcher and subject, taking into consideration issues of access and organisations that might enable access. Part of Liebling's argument is that it is better to undertake certain types of sensitive research even if bias is present, i.e; it is better to shed

light on sensitive issues than not. Having said this, she also argues for researchers to maintain distance and balance in any research project, a process that she terms “ethical rigour” (Liebling, 2001, p.481). She concludes her article: “Whose side are we on? The side of prudent, perhaps reserved, engagement” (2001, p.483).

The approach to the research project into cases of DAPC was to adopt prudent and reserved engagement. Access to the dataset was granted without condition by *Inquest*. I am not beholden to publish any research on their behalf nor to support or endorse any of their research or wider charitable work. Ultimately, the corpus of data consisted of documents that had been recorded in the public domain. The principal reason for them not being collated at the national level was the non-centralised and opaque nature of the coronial system. In this sense, *Inquest* provided a collation point on the basis of their work with families and friends of the deceased. The public nature of sources used in the research meant that replication, criticism and developments of the findings presented in this work are relatively straightforward. The researcher believes this is an inherently unique strength of using documentary datasets for research projects. If institutions are unable, or unwilling to effect access to a subject, then attempts should be made to gain such access, possibly through interested non-governmental organisations to sources of available data. The issue of potential bias should not dissuade the researcher from considering this approach if official access is not forthcoming.

Conclusion

Some issues demand to be researched despite obstacles that may appear, on first inspection to the researcher, to be insurmountable. Cases of DAPC reflect significant concerns in relation to human rights, the role of the state, and the police and their relationship with citizens. They symbolically represent issues of fairness and justice in society, and of the legitimacy of police to regulate society. When faced with apparently insurmountable obstacles, the researcher should attempt to find a way into the subject that circumvents these initial barriers. This may require innovative research methods to be used, allied to a research perspective that might initially appear to be somewhat oblique. Researching cases of DAPC from the perspective of how coroners’ courts construct accountability in such cases is not at first sight an obvious approach, **albeit it has been used in Canada (Antonowicz and Winterdyk, 2014) and Australia (Porter, 2013).** Using documentary data in social scientific

research has become relatively atypical. However, this paper has demonstrated that combining these approaches can represent a 'way in' to researching a sensitive and contentious subject by exploring 'in-between places'. If the researcher can demonstrate that the issue of bias is addressed, then innovative methods married to an original dataset can provide illumination on a subject where limited academic literature exists. Utilising available research from official organisations can, to some degree, circumvent the relative scarcity of academic literature on a subject and provide a framework that enables the researcher to identify key issues on the subject prior to analysing the corpus of data. Using framework analysis enables documents to be critically examined as constructs of institutional processes and may enable the critical evaluation of issues they raise about the subject of DAPC, as was demonstrated by the presentation of three key findings in this paper. Briefly stated, any attempt to minimise the number of people who die after police contact should consider other public services and their role in these deaths, otherwise policy makers do not consider significant causal factors that can result in such deaths (Baker, 2015). Issues of access, sensitivity and funding should not be preconditions to what does and does not get researched in the field of criminology. Avoiding contentious subjects because of such issues may seriously undermine the credibility of criminology as a discipline that has something important to say about key issues affecting society.

Word count: 7171

Bibliography

Adams, D (1980) *The Hitchhiker's Guide to the Galaxy*. London. Pan.

Antonowicz, D and Winterdyk, J (2014) 'A Review of Deaths in Custody in Three Canadian Provinces.' *Canadian Journal of Criminology and Criminal Justice*. 56 (1) 85-103.

ACPO (2012) *Guidance on the Safer Detention and Handling of Persons in Police Custody*. 2nd edn. London. NPIA.

Baker, D (2015) *Analysing the Construction of Accountability in Cases of Death After Police Contact*. Unpublished PhD thesis. Milton Keynes. Open University.

Baldwin, J (2000) 'Research on the Criminal Courts' In King, R and Wincup, E (eds) *Doing Research on Crime and Justice*. Oxford. Oxford University Press. pp. 236-258.

Becker, H (1967) 'Whose Side Are We On?' *Social Problems* 14 (3), pp. 239-247.

Beckett, C (1999) 'Deaths in Custody and the Inquest System.' *Critical Social Policy*. 19 (2), pp. 271-280.

British Medical Association (2009) *Health care of detainees in police stations*. Available at: bma.org.uk/-/media/Files/PDFs/.../Ethics/healthdetainees0209.pdf. Accessed 6/9/13.

Bryman, A (2012) *Social Research Methods*. 4th edn. Oxford: Oxford University Press.

Bryman, A (2008) *Social Research Methods*. 3rd edn. Oxford: Oxford University Press.

Carpenter, B, Tait, G, Quadrelli, C and Drayton, J (2015) 'Scrutinising the Other: Incapacity, Suspicion and Manipulation in a Death Investigation.' *Journal of Intercultural Studies*. 36 (2). 113-128.

Carrabine, J (2008) 'Unmarried Motherhood 1830-1990: A Genealogical Analysis.' In Wetherell, M, Taylor, S, and Yates, S (eds) *Discourse as Data*. London: Sage. pp. 267-310.

Casale, S, Corfe, M and Lewis, J (2013) 'Report of the independent external review of the IPCC investigation into the death of Sean Rigg.' Available at: http://www.ipcc.gov.uk/news/Pages/pr_170513_Riggreview.aspx. Accessed 21/5/13

Corbetta, P (2003) *Social Research: Theory, Methods and Techniques*. London: Sage.

Coles, D & Shaw, H (2012) *Learning from Death in Custody Inquests: A New Framework for Action and Accountability*. London: Russell Press.

Corrin, J and Douglas, H (2008) 'Another Aboriginal death in custody: uneasy alliances and tensions in the Mulrunji case.' *Legal Studies*. 28 (4). 531-558.

Davis, G. Lindsey, R. Seabourne, G. Griffiths-Baker, J. (2002) *Experiencing Inquests. Home Office Research Study 241*. Home Office Research, Development and Statistics Directorate.

Dodds, L, Robinson, K, Daking, L and Paul, L (2014) 'The concept of "intent" within Australian coronial data: factors affecting the National Coronial Information System's classification of mortality attributable to intentional self-harm.' *Health Information Management Journal*. 43 (3). 13-22.

Dingwall, R (2006) 'Confronting the anti-democrats: the unethical nature of ethical regulation in social science.' *Medical Sociology Online* no 1, pp. 51-58

Dorries, C (2004) *Coroners' Courts: A Guide to Law and Practice*, 2nd edn. Oxford: Oxford University Press.

Dyer, S & Demeritt, D (2008) 'Un-ethical review? Why it is wrong to apply the medical model of research governance.' *Progress in Human Geography*. 33 (1), pp. 46-64.

EHRC (2014) *Inquiry into non-natural deaths in detention of adults with mental health conditions, 2010-13*. Available at: <http://www.equalityhumanrights.com/publication/inquiry-non-natural-deaths-detention-adults-mental-health-conditions-2010%E2%80%9313>. Accessed 1/6/15

Erdos, D (2012) 'Constructing the Labyrinth: The impact of data protection on the development of "ethical" regulation in social science.' *Information, Communication and Society*. 15 (1), pp. 104-123.

Erfani-Ghattani, R (2015) The defamation of Joy Gardner: press, police and black deaths in custody. *Race and Class*. 56 (3), pp. 102-112.

European Court of Human Rights (2010) *European Convention on Human Rights*. Available at: http://www.echr.coe.int/Documents/Convention_ENG.pdf. Accessed 1/6/14.

Flyvbjerg, B, Landman, T, Schram, S (eds) (2012) *Real Social Science: Applied Phronesis*. Cambridge. Cambridge University Press.

Fulton, R (2008) *Review of the Forum for Preventing Deaths in Custody: Report of the Independent Reviewer*.

Fyfe, J (2002) 'Too many missing cases: Holes in our knowledge about police use of force.' *Justice Research and Policy*. 4, pp. 87-102.

Gournay, K (2005) 'Deaths in Custody.' *Mental Health Practice*. 8 (5), pp. 42-3.

Greer, C and McLaughlin, E (2012) 'This Is Not Justice: Ian Tomlinson, Institutional Failure and the Press Politics of Outrage.' *British Journal of Criminology*. 52 (2), pp. 274-293.

Griffith, R and Thngnah, C (2008) 'The role of the district nurse when involved in the coronial process.' *British Journal of Community Nursing*. 13 (2), pp. 93-97.

Hammersley, M (2009) 'Against the ethicists: on the evils of ethical regulation.' *International Journal of Social Research Methodology*. 12 (3), pp. 211-225.

Hannan, M (2013) 'Deaths in or following police custody: an examination of cases from 1998/00-2008/09.' In MacVean, A, Spindler, P and Solf, C (eds) *Handbook of Policing, Ethics and Professional Standards*. Abingdon: Routledge. pp. 56-67.

Hannan, M, Hearnden, I, Grace, K & Bucke, T (2010) *Deaths in or following police custody: An examination of the cases 1998/99 – 2008/09*. IPCC Research Series Paper: 17.

Heide, S, Kleiber, M, Hanke, S and Stiller, D (2009) Deaths in German police custody. *European Journal of Public Health*. 19 (6). 597-601.

Hill, C & Cook, L (2011) 'Narrative Verdicts and their impact on mortality statistics in England and Wales.' *Health Statistics Quarterly*. 49 (1), pp. 1-20.

Hirschfield, P.J. and Simon, D. (2010) 'Legitimizing police violence – newspaper narratives of deadly force.' *Theoretical Criminology*. 14 (2), pp. 155-182.

Holdaway, S (1984) *Inside the British Police; A Force at work*. London. Routledge.

House of Lords (2004) *Judgments - Regina v. Her Majesty's Coroner for the Western District of Somerset (Respondent) and another (Appellant) ex parte Middleton (FC) (Respondent)*

Available at:

<http://www.publications.parliament.uk/pa/ld200304/ldjudgmt/jd040311/midd-1.htm>.

Accessed 28/7/15.

Hurdley, R (2010) 'In the picture or off the wall? Ethical regulation, research habitus and unpeopled ethnography.' *Qualitative Inquiry*. 16 (6), pp. 517-528.

IPCC (2014) *Review of the IPCC's work in investigating deaths: Final report*. Available at: [http://www.ipcc.gov.uk/sites/default/files/Documents/deaths_review/Review of the IPCC s work in investigating deaths 2014.pdf](http://www.ipcc.gov.uk/sites/default/files/Documents/deaths_review/Review_of_the_IPCC_s_work_in_investigating_deaths_2014.pdf). Accessed 17/3/14.

Inquest (2015) *Stolen Lives and Missed Opportunities: The deaths of young adults and children in prison*. Available at:

http://inquest.org.uk/pdf/reports/INQUEST_T2A_report_final.pdf. Accessed 7/6/15.

Langer, S, Scourfield, J and Fincham, B (2011) 'Documenting the Quick and the Dead: A Study of Suicide Case Files in a Coroner's Office.' In Prior, L (ed) (2011b) *Using Documents and Records in Social Research. Vol 2: The Social Construction of Documents and Records*. London. Sage. pp. 143-158.

Lee, R (1993) *Doing Research on Sensitive Topics*. London. Sage.

Lee, R (1995) *Dangerous Fieldwork*. London. Sage.

Levine, M (and Pyke, J) (1999) *Levine on Coroners' Courts*. London: Sweet and Maxwell.

Liebling, A (2001) 'Whose Side Are We On? Theory, Practice and Allegiances in Prisons Research.' *British Journal of Criminology*. 41 (3), pp. 472-484.

Luce, T (2003) *Death Certification and Investigation in England, Wales and Northern Ireland: the Report of a Fundamental Review*. London: The Stationery Office.

Lumsden, K (2012) "'You are what you research': researcher partisanship and the sociology of the 'underdog'." *Qualitative Research*. 13 (1), pp. 3-18.

Matthews, P (2011) *Jervis on the Office and Duties of Coroners: with forms and precedents. Fourth Cumulative Supplement to the Twelfth Edition*. London: Sweet and Maxwell.

Matthews, P (2002) *Jervis on the Office and Duties of Coroners: with forms and precedents 12th edn*. London: Sweet and Maxwell.

McCulloch, G (2004) *Documentary Research in Education, History and the Social Sciences*. London. Routledge.

McIntosh, S (2012) 'Fulfilling their purpose: inquests, article 2 and next of kin.' *Public Law*. July. pp. 407-415.

McLaughlin, E (2007) *The New Policing*. London. Sage.

Mok, E (2014) 'Harnessing the Full Potential of Coroners' Recommendations.' *Victoria University of Wellington Law Review*. 44 (1). 321-366.

Pilkington, P, Bird, E, Gray, S, Towner, E, Weld, S and McKibben, M (2014) 'Understanding the social context of fatal road traffic collisions among young people: a qualitative analysis of narrative text in coroners' records.' *BMC Public Health*. 14. 78.

Polks, K (1994) *When Men Kill: Scenarios of Masculine Violence*. Cambridge. Cambridge University Press.

Porter, L (2013) 'Indigenous deaths associated with police contact in Australia: Event stages and lessons for prevention.' *Australian and New Zealand Journal of Criminology*. 46 (2). 178-199.

Prior, L (2003) *Using Documents in Social Research*. London. Sage.

Reiner, R (2000) 'Police Research.' In King, R and Wincup, E (eds) (2000) *Doing Research on Crime and Justice*. Oxford. Oxford University Press. pp. 205-235.

Renzetti, C and Lee, R (1993) *Researching Sensitive Topics*. London. Sage.

Ritchie, J and Spencer, L (1994) 'Qualitative data analysis for applied policy research.' In Bryman, A and Burgess, R (eds) (1994) *Analysing Qualitative Data*. London. Routledge. 188-209.

Savage, S, Grieve, J, and Poyser, S (2009) 'Stephen Lawrence as a miscarriage of justice.' In Hall, N, Grieve, J and Savage, S (eds) *Policing and the Legacy of Lawrence*. Cullompton. Willan. pp. 25-40.

Savage, S (2008) 'Deaths in Police Custody' In Newburn, T and Neyroud, P (eds) *Dictionary of Policing*. Cullompton. Willan. pp. 77-78.

Scott, J (1990) *A Matter Of Record: Documentary Sources in Social Research*. Cambridge. Polity.

Scruton, P & Chadwick, K (1987) *In the Arms of the Law: Coroners' Inquests and Deaths in Custody*. London: Pluto.

Sim, J (2004) 'The victimised state and the mystification of social harm.' In Hillyard, P, Pantazis, C, Tombs, S and Gordon, D (eds) *Beyond Criminology: Taking Harm Seriously*. London: Pluto. pp. 113-132.

Smith, D (2011) 'The Social Construction of Documentary Reality' In Prior, L (ed) *Using Documents and Records in Social Research. Vol 2: The Social Construction of Documents and Records*. London. Sage. pp. 1-20.

Smith, G (2013) 'Oversight of the police and residual complaints dilemmas: independence, effectiveness and accountability in the United Kingdom.' *Police Practice and Research: An International Journal*. 14 (2), pp. 92-103.

Thomas, L. Straw, A, & Friedman, D (2008) *Inquests: a practitioner's guide*, 2nd edn. London: Legal Action Group.

Warwick Inquest Group (1985) *The Inquest as a Theatre for Police Tragedy: The Davey Case*. *Journal of Law Society*. 12 (1). 35-61.

Westmarland, L (2011) *Researching Crime and Justice: Tales from the Field*. London. Routledge.

Wetherell, M, Taylor, S, and Yates, S (eds) (2008) *Discourse as Data*. London: Sage.

Williams, C and Emsley, C (2006) 'Beware of the Leopard? Police Archives in Great Britain.' in Proctor, M, Cook, M and Williams, C (eds.) *Political Pressure and the Archival Record*. Society of American Archivists: Chicago. pp. 227-235.